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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-35294-2019 (O&M)
Date of Decision: 24.02.2023

Mamta Goel and others

....Petitioner(s)

Versus

Panjab University and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.K. Malik, Senior Advocate assisted by
Mr. Sandeep Dhull, Advocate, for the petitioners.

Ms. Hema Kakkar, Advocate, for the respondents.

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<u>JASGURPREET SINGH PURI, J. (Oral)</u>

The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of *Mandamus* directing the respondents to release the family pension with market rate interest from the date it is due with a further prayer for directing the respondents to pay the interest on the delayed payment of Ex.-gratia amount, gratuity amount and leave encashment amount to the petitioners.

Learned Senior Counsel appearing on behalf of the petitioners submitted that the prayer in the present petition is two fold. Firstly, petitioner No.1 is a widow of one Parveen Gupta who had died on 25.08.2016 who was entitled for the family pension on his death but the same has not been paid by the respondent-University. He submitted that now during the pendency of the present petition, a notification was issued by the respondent-University vide Annexure P-7 whereby the pension scheme has been made applicable and now an email has been sent by the respondent-University that the petitioners would be paid family pension from March, 2023 (although it has been so mentioned in the email to be April, 2024). However, the learned counsel for the respondent-University has stated that it is typographical error and the pension will be paid to the petitioners w.e.f April, 2023. It has also been mentioned in the email that the arrears of pension would also be paid to the petitioners w.e.f. 26.08.2016 till 28.02.2023. Learned Senior Counsel for the petitioners submitted that in view of the aforesaid position so far as the prayer for grant of family pension is concerned, the same has become infructuous in view of the statement made by the learned counsel for the respondent-University especially that the pension will be paid w.e.f. March/April, 2023 and not from 2024.

Learned Senior Counsel further submitted that so far as the second prayer with regard to the grant of interest on the delayed payment is concerned, the husband of petitioner No.1 had died on 25.08.2016 and gratuity has been paid on 27.12.2017, leave encashment on 01.02.2018, provident fund on 01.12.2017 and ex-gratia amount was released in December, 2017. He submitted that there was a delay of about 1½ years in disbursement of the aforesaid amounts.

On the other hand, Ms. Hema Kakkar, Advocate, appearing on behalf of the respondent-University submitted that in fact the husband of petitioner No.1 was earlier working with the PGI till 07.04.2014 and thereafter he joined the respondent-University on 07.04.2014 and he died on 25.08.2016. She submitted that for the purpose of disbursement of the retirement benefits, the pro-rata share of the PGI was also taken by the University and then the amount was to be paid and therefore there had been no delay on the part of the respondent-University in disbursement of the aforesaid amount. She referred to Annexure P-4 and P-5 in this regard to state that even as per Annexure P-4 dated 24.05.2017, the pro-rata amount of PGI was sent to the respondent-University vide aforesaid letter dated 24.05.2017 and thereafter the respondent-University has paid amount on the aforesaid dates which have been pointed out by the learned Senior Counsel for the petitioners and therefore there is no delay in the payment of the aforesaid amount and therefore, the same does not carry any interest.

However, learned Senior Counsel for the petitioners has submitted that even if it is taken to be true that the PGI has sent the pro-rata amount vide letter dated 24.05.2017 still there had been a delay of about 6 months in payment of gratuity, provident fund and Ex-gratia amount and there had been a delay of about 8 months in release of leave encashment and at least for the aforesaid amounts, the petitioner is entitled for interest especially in view of the fact that she is facing hardship and she is a poor lady and therefore the petitioners are entitled for the interest on the aforesaid payment because after the receipt of the pro-rata amount from the PGI, there was no justification to have withheld the aforesaid amount of both share of PGI and share of the University.

I have heard the learned counsel for the parties.

So far as the first prayer of the petitioners with regard to grant of family pension is concerned, as per learned counsel for the parties the same has become infructuous in view of the fact that now it has been so communicated to the petitioners that the pension has been sanctioned and arrears will be paid. Since the aforesaid communication has already been sent but payment has not been paid till date and in case the aforesaid amount is not paid to the petitioners within a period of two months from today, then the petitioners will be entitled for interest on the delayed payment @ 6% per annum.

So far as the second relief with regard to retiral benefits is concerned, a perusal of Annexure P-4 and P-5 and the dates on which the amount has been paid to the petitioners as aforesaid even when the amount was received by the respondent-University from the PGI there had been a delay of about 6 months to 8 months in release of the aforesaid benefits. Since the petitioner No.1 is a widow and according to the learned Senior Counsel for the petitioners, she is facing hardship, the petitioners shall be entitled for interest @ 6% per annum on the aforesaid delayed period of 6 months to 8 months after the amount was received from the PGI till the date of disbursement. The respondent-University is directed to calculate the aforesaid amount of interest @ 6% per annum and pay to the petitioner within a period of two months from today. In case the aforesaid amount is not paid within a period of two months, then the petitioners shall be entitled for a future interest @ 9% per annum instead of 6%.

24.02.2023 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No